

Serial No. 09/889,834
Reply to Office Action of March 3, 2004

REMARKS

In the final office action referenced above, the examiner has allowed claim 18, and indicated that claims 14, 15 and 24-26 could be put in condition for allowance by overcoming certain §112, second paragraph, rejections contained in the final office action. With regard to claims 14, 18 and 24, Applicant has adopted the examiner's suggestions for overcoming the §112 rejections and has made a few additional housekeeping amendments to claim 26. Applicant submits that these amendments overcome the §112 rejections and that claims 14, 15 and 24-26 are in condition for immediate allowance.

Applicant also queries the examiner as to the status of claims 16 and 17. The office action summary page does not list these claims as pending, although the examiner will note that they were not canceled in Applicant's prior amendment and are still part of the application. Accordingly, Applicant submits that it was in error for the examiner to omit to list these claims as pending and also not to indicate their status. Since these claims depend upon rejected claim 1, Applicant assumes that the examiner intended to reject them as either anticipated by or obvious over Robertson and requests clarification on this point.

The examiner continues to reject claims 1, 2, 5-9, 11-13 and 23 as either anticipated by or obvious over Robertson. He has indicated that claims 3, 4 and 10 could be put in condition for allowance by rewriting them as independent claims. However, Applicant has elected not to do so at this opportunity, because Applicant will argue that the rejection of claim 1 (upon which all of these claims ultimately depend) is mistaken.

In the final office action, the Examiner states:

Re claim 1 as newly amended, element 4 defines an elastomeric jacket as broadly claimed. Additionally, in as much as element 4 wraps around at least the bottom flanges of the I-beam shape of

Serial No. 09/889,834
Reply to Office Action of March 3, 2004

element 1 (see figure 1), it is deemed to "surround" the element 1 cross-bar as broadly claimed.

It may be arguably true that element 4 of Robertson "wraps around at least the bottom flanges of the I-beam shape of element 1." However, this is not what pending claim 1 requires. Pending claim 1 requires "an elastomeric jacket surrounding said cross-bar." Applicant strongly disagrees with the examiner that an element, even if it is an elastomeric jacket, which only wraps around a part of the cross beam is covered by the "surrounds" language of claim 1.

Applicant has attached hereto Exhibit 1, which is page 1188 of *Webster's Ninth New Collegiate Dictionary*. According to this standard dictionary definition, the first meaning of the word "surround" is "to enclose on all sides: envelop." The examiner will note that this first definition specifically requires that whatever is being surrounded be "enclosed on all sides." It gives as a synonym for the word "surround" the word "envelop." Turning to Exhibit 2, which is page 416 from the same reference, we find that the first definition of the word "envelop" is "to enclose or enfold completely with or as if with a covering."

Hence, the standard dictionary definitions of "surround" and its synonym "envelop" use such terms as "to enclose on all sides" and "to enclose or enfold completely." There is nothing in the specification of the present application which would indicate that Applicant is using any specialized definition of the word "surround," so, Applicant submits, the standard definition should be employed to determine whether the present claim language of claim 1 reads on the Robertson device.

From a brief examination of Figure 1 of Robertson, it is abundantly clear that the Figure 4 elements do not, in fact, enclose on all sides or enfold the cross bar completely. Rather (and the examiner, himself, acknowledges this in the final office action), they cover only the bottom

Serial No. 09/889,834

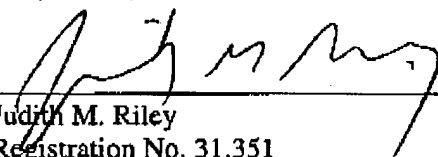
Reply to Office Action of March 3, 2004

flanges of the I-beam shape of element 1. Hence, Robertson teaches a different device from that of the claim 1 invention and cannot possibly anticipate claim 1 nor any claims dependent thereon. Furthermore, there is no teaching or suggestion in Robertson to modify the element 4 such that it would surround the entire I-beam shape of element 1. Accordingly, Robertson also does not render any of claim 1 nor its dependent claims obvious.

Since claim 1 and its dependent claims are neither anticipated by nor obvious over Robertson (or any of the other prior art of record), Applicant submits that they are patentable over the prior art and in condition for immediate allowance. Accordingly, Applicant respectfully requests the examiner to withdraw these rejections and allow these claims.

Should the examiner have any questions or additional suggestions to improve the clarity of the claims, Applicant respectfully requests him to contact the undersigned attorney at the office number below.

Respectfully submitted,



Judith M. Riley
Registration No. 31,351
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 N. Old Woodward, Suite 400
Birmingham, MI 48009
(248) 647-6000

Attorney for Applicant

Dated: 05/04/04

JMR/gs

GS-W:\Word Processing\jmr\CAF28502-amd2.doc

Serial No. 09/889,834
Reply to Office Action of March 3, 2004

CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being sent to the United States Patent Office
via facsimile (703-872-9306) on 5-4-04.

